IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

Bail Appl..No. 6542 of 2007()

(CRIME NO.42/2006 OF KOZHINJAMPARA POLICE STATION)

PETITIONERS/ACCUSED:

DILEEP @ DEEPU, AGED 27 YEARS,
S/O. RAVI, R/AT PENGARAPILLY, P.O.MEKKADAMBU,
VALAKAM, MUVATTUPUZHA, ERNAKULAM DISTRICT.

BY ADV. SRI.AJEESH S.BRITE

RESPONDENT: COMPLAINANT:

STATE OF KERALA, THROUGH THE
STATION HOUSE OFFICER, KOZHINJAMPARA,
REP. BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J.

B.A.No.6542 of 2007

Dated this the 29th day of October 2007

O R D E R

Application for anticipatory bail. The petitioner faces indictment for an offence punishable under Section 308 I.P.C. The investigation is complete. Final report has already been filed. Cognizance has been taken. Committal proceedings has been registered before the learned Magistrate. The petitioner has not appeared before the learned Magistrate. He was not arrested also by the police till now. After taking cognizance, coercive processes have been issued against the petitioner. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this bail application is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007